

Application No.: 09/700,839

Docket No.: 22135-00006-US

REMARKS***Introduction***

Receipt of the Office Action dated July 1, 2003 is acknowledged. Claims 1 and 16 are amended to clarify that the claimed film is in microdisperse distribution. Support for the amendment is found throughout the specification and claims as originally filed, for example, on page 3, line 1. No new matter has been added. Entry of the amendment and favorable reconsideration are earnestly solicited. Claims 1-16 are pending.

Withdrawal of Rejection

Applicants acknowledge that the 35 USC rejection of claims 1-16 as unpatentable over Hammer et al (US 5,928,737) in view of DD 247830A (abstract) was withdrawn in view of applicants' remarks on pages 2-4 of the request for reconsideration dated 17 June 2003 (Paper No. 13). The Examiner has also withdrawn the finality of the Office Action dated March 19, 2003.

New Rejection**Claim Rejections – 35 USC § 103**

On page 2 of the Action, claims 1-16 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over DD 247830A in view of Lorcks (US 6,096,809).

DD 247830A teaches sausage skins made from 60 to 98% polyurethane and 2 to 40% starch. The Examiner acknowledged that the DD fails to teach the use of thermoplastic starch, the specific polyester urethanes, or the drawing ratios as claimed. In fact DD 247830 discloses a sausage casing consisting of a polyurethane which is filled with starch. Polyesterurethanes are not disclosed or contemplated at all. Furthermore, there is no disclosure that the starch could be thermoplastic starch. The process conditions as set forth in the Examples of the DD reference are unsuitable to convert native starch into thermoplastic starch.

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The secondary reference, Lorcks discloses polymer mixtures comprising thermoplastic starch. A mixture of thermoplastic starch and polyesterurethane is also disclosed (see col. 2, lines 7-23). The mixture has a low water content, preferably less than 0.5% by weight, more preferably less than 0.1% by weight, based on the total weight of the mixture (col. 5, lines 11-15, see also lines 52/53). In col. 5, lines 16-28, of Lorcks it is explained that in the preparation of the polymer mixture, the thermoplastic starch is present to begin with as a dispersed phase, while the polyesterurethane is present as continuous phase. When the two polymers are mixed with the exclusion of water, a phase mediator is formed which effects a molecular coupling of the two phases. As a result, a single continuous phase is obtained. This is further detailed at col. 5, line 42, to col. 6, line 11, where is disclosed that during mixing in an extruder or kneader water is formed, which is attributed to the formation of a phase mediator which gives rise to the continuous phase.

The Examiner has taken the position that the references are analogous because they both deal with films made from polyurethane/starch combinations. Applicants respectfully disagree. Namely, the polymer mixture according to Lorcks is suitable in the field of engineering plastics (col. 6, lines 12-31). It may be processed by injection molding, extrusion or film blowing. However, there is no indication whatsoever that the polymer mixture of Lorcks could be employed to produce a sausage casing. It would not have been obvious to one having ordinary skill in the art at the time that the invention was made to employ the thermoplastic starch and the polyester urethanes of the compositions of Lorcks in the casings of DD 247830A. The DD casings were already biodegradable, and thus, would one have been motivated to look to a reference in the field of containers and by so doing, have determined thermoplastic starch and polyester urethanes should be added? The answer is, of course, no.

Moreover, the present film is present in a microdisperse distribution as recited in claims 1 and 16. There is simply no teaching or suggestion in either reference being relied upon of such a distribution or anything similar or foreseeable therefrom. Hence, the instant claims 1-16 are not rendered obvious over the references being relied upon and the rejection should be withdrawn.

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In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Please charge our Deposit Account No. 22-0185, under Order No. 22135-00006-US in the amount of \$420.00 and any other fees deemed necessary, from which the undersigned is authorized to draw.

Dated: December 1, 2003

Respectfully submitted,

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